

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL LATOURETTE,

Plaintiff,

V.

MICHAEL DANKO, et al.,

Defendant.

CASE NO. C10-951RSM

ORDER ADOPTION REPORT AND RECOMMENDATION AND DISMISSING ACTION

The Court, having reviewed plaintiff's complaint, the Report and Recommendation of United States Magistrate Judge Brian A. Tsuchida (Dkt. # 5), and plaintiff's objections thereto (Dkt. # 6), does now find and ORDER:

(1) The Report and Recommendation is approved and adopted.

(2) Plaintiff's request to amend his complaint to add as defendants the King County prosecutor and King County Superior Court Judge Sharon Armstrong is DENIED as futile, as these defendants are immune from suit under §1983 under the circumstances presented here. Further, plaintiff's claim for monetary damages arising from his conviction is barred. A § 1983 claim that calls into question the lawfulness of the plaintiff's conviction or confinement does not

1 accrue “unless and until the conviction or sentence is reversed, expunged, invalidate, or
2 impugned by the grant of a writ of habeas corpus.” *Heck v. Humphrey*, 512 U.S. 477, 489
3 (1994).

4 (3) Plaintiff’s §1983 complaint is DISMISSED, and his application for leave to proceed
5 *in forma pauperis* is DENIED as moot.

6 The Clerk shall direct copies of this Order to plaintiff at his address of record, and to the
7 Hon. Brian A. Tsuchida, United States Magistrate Judge.

8 Dated September 13, 2010.

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11 RICARDO S. MARTINEZ
12 UNITED STATES DISTRICT JUDGE
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